

ANALYSIS OF AMENDED BILL

Franchise Tax Board

Author: Vasconcellos Analyst: Marion Mann DeJong Bill Number: SB 1933

Related Bills: _____ Telephone: 845-6979 Amended Date: 04/06/2000

Attorney: Patrick Kusiak Sponsor: _____

SUBJECT: California Commission on Tax Policy in the New Economy/FTB Executive Officer, BOE, EDD, DOF and Controller Members on Commission

SUMMARY OF BILL

This bill would establish the California Commission on Tax Policy in the New Economy to develop a long-term strategy for revising the state and local tax structure for California.

SUMMARY OF AMENDMENT

The April 6, 2000, amendments deleted the provisions of the bill as introduced (relating to sales tax) and inserted the provisions discussed in this analysis.

EFFECTIVE DATE

This bill would become effective and operative on January 1, 2001.

LEGISLATIVE HISTORY

The following bills for 1999/2000 also deal with taxation and the Internet. SB 1377 would exempt the sale of tangible property ordered over the Internet from taxation. SB 1949 would require the governor to appoint a representative to work with other states to develop a multi-state sales and use tax collection and administration system. AB 1784 would permanently extend the California Internet Tax Freedom Act. AB 2188 would exempt from tax the sale of tangible property purchased over the Internet. AB 2412 would require a retailer affiliated with a retailer doing business in California to collect the sales and use tax.

BACKGROUND

The federal Internet Tax Freedom Act established the Advisory Commission on Electronic Commerce to study federal, state, local, and international taxation and tariff treatment of transactions using the Internet and other comparable intrastate, interstate, and international sales activities. The 19-member commission, comprised of representatives from federal, state, and local governments and the electronic industry, is required to report its findings and recommendations to Congress. A majority of the commissioners approved policy proposals to (1) reduce the amount of tax consumers pay by repealing the 3% federal excise tax on telecommunications services; (2) permanently prohibit states or localities from taxing Internet access fees; and (3) extend the current federal moratorium on multiple and discriminatory taxes on the Internet. The federal commission was unable to achieve the required two-thirds support necessary for a formal recommendation.

Board Position:

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| _____ S | _____ NA | _____ NP |
| _____ SA | _____ O | _____ NAR |
| _____ N | _____ OUA | _____ <u>X</u> PENDING |

Department Director

Date

Gerald H. Goldberg

4/24/00

The Legislative Analyst, in a report entitled "California Tax Policy and the Internet," recommended that the Legislature consider reviewing the sales and use tax, the corporate income tax, and telecommunications taxes in relation to e-commerce activity and the impact e-commerce has on tax administration, tax equity, and overall state revenue.

California's current tax structure is largely based on an industrial economy that produced most of its wealth from manufacturing and agriculture. However, California's economy is moving toward a technology-dependent economy based on information and services. Experts feel that California's tax policies and collection mechanisms should be reevaluated in light of this new economy.

SPECIFIC FINDINGS

The United States Constitution limits state authority to levy taxes and authorizes Congress to regulate commerce between the states and with foreign nations.

Current federal law imposes various taxes on businesses and individuals.

Current state and local laws impose various state and local taxes on businesses and individuals in the state, including a state personal income tax and a state bank and corporation income and franchise tax. The Franchise Tax Board is responsible for administering these income and franchise taxes.

This bill would establish the California Commission on Tax Policy in the New Economy to develop a long-term strategy for revising the state and local tax structure for California. This commission would examine the impact of the Internet and other forms of electronic technology on various types of taxes, including income and franchise taxes, and report to the Legislature.

The commission would be comprised of nine voting members (representing local government, academia, private sector, and public interest groups) and nine ex-officio nonvoting members of various state and legislative entities. The Executive Officer of the Franchise Tax Board, the chair of the State Board of Equalization, and the Controller would be three of the nine ex-officio nonvoting members. The Governor would appoint five voting members, and the President Pro Tempore of the Senate and the Speaker of the Assembly would each appoint two voting members.

The commission's responsibilities would include the following:

- ⌚ identifying all the key stakeholders and inviting them to participate in the commission's process;
- ⌚ developing a comprehensive agenda of goals and a roadmap of all critical issues to be addressed in achieving a workable, flexible, balanced, and long-term solution;
- ⌚ conducting public hearings and addressing each of the critical issues identified by the commission and seeking comprehensive conclusions with respect to the best public policy for taxing the Internet;
- ⌚ examining and describing all aspects of the current and the future California economy, with special attention to the influence of new technologies, including but not limited to the use of the Internet in electronic commerce;

- ⌚ assessing the impact of those predictions about the economy on the sources and amounts of projected public revenues, with special attention to the needs of local government; and
- ⌚ studying and making recommendations regarding specific elements of the California system of state and local taxes, including but not limited to, issues related to sales and use tax, telecommunications taxes, income and franchise taxes, and property taxes.

With respect to **income and franchise taxes**, the commission's responsibilities would include examining (1) recent trends in the collection of bank and corporation taxes and the impact that a transitioning economy has had on those trends and (2) the relationship between bank and corporation taxes and personal income tax and whether trends in the new economy will have an impact on that relationship.

Implementation Considerations

This bill would not directly impact the programs administered by the department. The department's executive officer (or designee) would participate on the commission.

LEGISLATIVELY MANDATED REPORTS

The commission would be required to submit an interim report to the Governor and Legislature within 12 months from the date of the commission's first public meeting. A final report with recommendations would be due not later than 24 months from the date of the commission's first public meeting.

COMMISSIONS & BOARDS

This bill would create the California Commission on Tax Policy in the New Economy.

FISCAL IMPACT

Departmental Costs

This bill would not significantly impact the department's costs.

Tax Revenue Estimate

This bill would not impact state income or franchise tax revenues.

BOARD POSITION

Pending.